



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/858,322	05/15/2001	Manoel Tenorio	020431.0839	3081
7590	02/28/2005		EXAMINER	
Christopher W. Kennerly Baker Botts L.L.P. Suite 600 2001 Ross Avenue Dallas, TX 75201-2980			NGUYEN, CUONG H	
			ART UNIT	PAPER NUMBER
			3661	
			DATE MAILED: 02/28/2005	

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/858,322	TENORIO, MANOEL	
	<b>Examiner</b>	<b>Art Unit</b>	
	CUONG H. NGUYEN	3661	

**- The MAILING DATE of this communication appears on the cover sheet with the correspondence address -**

### **Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1)  Responsive to communication(s) filed on 02 November 2004.

2a)  This action is FINAL.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

- 4)  Claim(s) 1-43 is/are pending in the application.  
4a) Of the above claim(s) 11-26, 37-40 and 42 is/are withdrawn from consideration.  
5)  Claim(s) \_\_\_\_\_ is/are allowed.  
6)  Claim(s) 1-10, 27-36, 41 and 43 is/are rejected.  
7)  Claim(s) \_\_\_\_\_ is/are objected to.  
8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 15 May 2001 is/are: a)  accepted or b)  objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 11/02/04

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_ .  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_ .

Art Unit: 3661

**Status of the claims**

1. Claims 1-10, 27-36, 41, and 43 of Group I are elected with traverse. The examiner makes this election as final election because there were 2 distinct inventions; applicant has withdrawn claims 12-26, 37-40, and 42 on 11/01/2004.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraph of 35 U.S.C. § 102 in view of the AIPA and H.R. 2215 that forms the basis for the rejections under this section made in the attached Office action:

**A person shall be entitled to a patent unless -**

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

35 U.S.C. § 102(e), as revised by the AIPA and H.R. 2215, applies to all qualifying references, except when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. For such patents, the prior art date is determined under 35 U.S.C. § 102(e) as it existed prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. § 102(e)).

2. Claims 1, 27 are rejected under 35 U.S.C. 102(e) as being anticipated by Rajaraman et al. (US Pat. 6,366,910).

A. As per independent 1: Rajaraman et al. teach a system using for electronic commerce transactions, comprising:

- product classes, and attributes of the product class (see Rajaraman et al., Fig.3B, the abstract, claims 1, 19);
- pointers for each product class, each pointer identifying a seller database, each seller database associated with each

seller attributes which are name(s)/structure(s) of a field in a database record (see Rajaraman et al., Fig.3B, 7:43-61); and

- a search interface, and a search query for product data (see Rajaraman et al., Fig.2 ref. 207, the abstract, and 1:65 to 2:22).

Therefore, Rajaraman et al. already teach an e-commerce concept that including structures as claimed.

B. As per independent 27: It contains a software having instructions embedded in a computer-readable medium; it inherently contains all limitations of claim 1; therefore, similar reference and rationales for rejection of claim 1 are applied.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office Action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 41, 43, 1-10, 27-36 are rejected under 35 U.S.C. 103(a) as being Rajaraman et al. (US Pat. 6,366,910) in view of Riordan et al. (US Pat. 6,078,891), and in view of Murcko Jr. (US Pat. 6,578,014).**

Art Unit: 3661

A. As to independent claims 1, 7-9, 27, 33-35, 41, 43: Rajaraman

et al. teach a system/a computer-readable medium, containing:

- a structure comprising product classes, doing categorizing, and defining an attribute of a product categorized in the product class (see Rajaraman et al., Fig.3B, the abstract, claims 1, and 19);
- a pointer for each product class, each pointer identifying a seller database having attribute(s) (i.e., name(s)/structure(s) of a field in a database record, see Rajaraman et al., Fig.3B, 7:43-61); and
- a search interface specifying a seller/product attribute/criteria (see Rajaraman et al., claim 1).

Rajaraman et al. do not disclose that seller attribute matches a buyer profile, a search query for product data only to seller databases associated with sellers identified in the buyer profile.

Riordan et al. inherently suggest that idea; they obviously include required criteria in a search (see Riordan et al., 1:36-49 – collecting data from preferred customers linked to a database record which stores information relating to the customer's past purchases/purchasing patterns); (please note that “these seller databases being identified by the one or more pointers associated with the selected product class” should not be included as a part of inventors’ system).

Art Unit: 3661

Rajaraman et al. and Riordan et al. do not disclose that a pointer is used.

However, Murcko Jr. disclose that idea (see Murcko Jr., 11:18-27 - please note that "a buyer profile comprising a list of seller attribute criteria compiled based on one or more previous search requests or one or more previous electronic transactions involving the buyer" is input for searching and it is old and well-known for a searcher to repeat previous data including seller attribute criteria and previous transactions, see Murcko, Jr., 27:20-67).

Rajaraman et al. do not disclose that a search query involves data of a buyer profile/preferences/habit.

However, Murcko Jr. suggests that idea (see Murcko Jr., 22:21-33).

B. As to claims 5, and 31: - a product attribute criteria is also required. This is suggested in Rajaraman et al., Fig.6 - Priority 3 -.

It would have been obvious for one of ordinary skill in the art at the time of invention to combine Rajaraman et al., Riordan et al., and Murcko Jr. to use a buyer profile for searching in addition to a buyer's query because it narrows down the search result to come up with a preferred product that fit with said buyer.

Art Unit: 3661

C. Claim 43 contains a software having instructions in a computer-readable medium; it inherently contains all limitations of claim 41; therefore, similar references and rationales for above rejection of claim 41 are applied.

D. As to dependent claims 2, 28: The rationales and references for a rejection of claim 1 are incorporated.

Rajaraman et al. teach a system of Claim 1, they do not disclose that "wherein a seller attribute is selected from the group consisting of geographic restrictions, currencies accepted, level of buyer credit required, collaboration tools accepted, types of contracts accepted, and contract terms accepted".

However, the examiner respectfully submits that above limitation is old and well-known (e.g., the business practice of Priceline.com (Walker et al.'s patents) taking into account above attributes to select a seller having above criteria: geographic restrictions, currencies accepted, level of buyer credit required, collaboration tools accepted, types of contracts accepted, and contract terms accepted).

It would have been obvious for one of ordinary skill in the art at the time of invention to combine Rajaraman et al., and Riordan et al. to use a seller profile for searching in addition to a buyer's query because it narrows down the search result to

Art Unit: 3661

come up with a preferred product and seller that fit with said buyer's requirement.

E. As to dependent claims 3-4, and 29-30:

The rationales and references for a rejection of claim 41 are incorporated.

It is directed to a system with a selection of a product class is made automatically according to a buyer profile.

Murcko Jr. teaches about selection of a product class according to a buyer's preference/profile (see Murcko Jr., 22:21-33).

The examiner respectfully submits that providing an automatic means to replace a manual activity which accomplished the same result is not sufficient to distinguish over the prior art (*In re Venner*, 262 F.2d 91, 120 USPQ 193, 194 - CCPA 1958).

It would have been obvious for one of ordinary skill in the art at the time of invention to combine Rajaraman et al., Riordan et al., and Murcko Jr. to use a buyer profile for searching in addition to a buyer's query because it narrows down the search result to come up with a preferred product that fit with said buyer.

F. As to dependent claims 6, 32: The rationales and references for a rejection of claim 1 are incorporated.

The examiner respectfully submits that seller attribute values (i.e., a specific geographic location, "ONLY ACCEPT

Art Unit: 3661

MASTER/VISA CARDS" etc.) can be stored in a seller database or in a public-accessed server.

G. As to dependent claims 10, 36: The rationales and references for a rejection of claim 7 are incorporated.

Murcko Jr. suggests that a buyer profile comprises a list of seller attribute criteria as discussed in rationales for rejection of claim 41 above.

Rajaraman et al., Riordan et al., and Murcko Jr. do not disclose that "the search interface automatically updates the buyer profile at certain time intervals by eliminating from the buyer profile sellers no longer having seller attribute values matching the listed seller attribute criteria and adding to the buyer profile sellers having seller attribute values matching the listed seller attribute criteria".

However, this is a system claim comprising physical devices, components, structures etc. that make-up that claimed system. The examiner also respectfully submits that providing an automatic means to replace a manual activity which accomplished the same result is not sufficient to distinguish over the prior art (*In re Venner*, 262 F.2d 91, 120 USPQ 193, 194 - CCPA 1958). The search interface is provided by Rajaraman et al., and it is obvious to updated buyer profiles with current seller

Art Unit: 3661

attribute/criteria as Murcko Jr. suggested in the rationale for rejection of above claim 41.

It would have been obvious for one of ordinary skill in the art at the time of invention to combine Rajaraman et al., Riordan et al., and Murcko Jr. to use an updated buyer profile and a seller attribute criteria in Internet searching because this search is efficient and accurate.

4. Remark:

- computer "**Class**" exists in OO languages (C++, SmallTalk, Java...)

An SUV automobile, a TRUCK, and a CONVERTIBLE car are 3 different CLASSES of automobiles. In programming, a pointer is used to select/identify 1 of those 3, that is "a pointer" has been used to identify a product "class". If you want to call some functions in a class, you have to instantiate the class or if the function is static, you can call directly by saying "classname.functionname()"

- **Pointer** (n): In programming and information processing, a variable that contains the memory location (address) of some data rather than the data itself (similar as **reference**: a data type in the C++ programming language; a reference must be initialized with a variable name. The reference then becomes an

alias for that variable but actually stores the address of the variable).

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CUONG H. NGUYEN whose telephone number is 703-305-4553. The examiner can normally be reached on 7:15am - 3:45pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas G. Black can be reached on 703-305-8233. The fax phone number for the organization where this application is assigned is 703-305-7687.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CHN

*Cuong Nguyen*

CUONG H. NGUYEN  
Primary Examiner  
Art Unit 3661